

IN THE TEXAS COURT OF CRIMINAL APPEALS

JAMES E. WILLIAMS,  
APPELLANT

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FILED  
COURT OF CRIMINAL APPEALS  
2/7/2019  
DEANA WILLIAMSON, CLERK

V.

**NO. PD-0870-18**

THE STATE OF TEXAS,  
APPELLEE

**FIRST MOTION FOR EXTENSION OF TIME**  
**FOR FILING OF STATE'S BRIEF ON THE MERITS**

TO THE HONORABLE COURT OF CRIMINAL APPEALS:

The State requests that the Court grant an extension of time for the filing of the State's Brief on the Merits in this case. The following allegations are made in support of this motion:

I.

The court below is the Second Court of Appeals. The style and number of the interim appellate case is *James E. Williams v. State*, cause number 02-17-00001-CR. On July 19, 2018, the court of appeals issued a 2-1 panel decision affirming the trial court's judgment. *Williams v. State*, No. 02-17-00001-CR, 2018 WL 3468458 (Tex. App. – Fort Worth Jul. 19, 2018, no pet. h.) (mem. op., not designated for publication). Justice Pittman dissented, agreeing with the State that the appellate court did not have jurisdiction to reach the merits of Appellant's argument. *Williams v. State*, 02-17-00001-CR, 2018 WL 3469635 (Tex. App. – Fort Worth Jul. 19, 2018, no pet. h.) (mem. op., not designated for publication). The conviction

arose out of a jury trial in the 297<sup>th</sup> District Court of Tarrant County, Hon. David Hagerman, presiding. The style and number of the case in the trial court is *The State of Texas v. James E. Williams*, cause number 1469951R.

## II.

Appellant was charged with aggravated kidnapping. [CR 7, 231] Appellant pled not guilty. [CR 230, 261; 3 RR 8] Appellant was found guilty by the jury of attempted kidnapping. [CR 235, 261; 9 RR 6] Appellant was sentenced to two years state jail. [CR 258, 261] Judgment was entered on October 6, 2016. [CR 261] On October 24, 2016, Appellant filed his motion for new trial. [CR 278] On October 25, 2016, the trial court signed a Nunc Pro Tunc Order Correcting Minutes of the Court *sua sponte* amending the Sex Offender Registration Requirements and Age of Victim fields. [CR 298]

## III.

Appellant filed his notice of appeal on December 16, 2016. [CR 317] Appellant is currently incarcerated.

#### IV.

The current deadline for filing the State's Brief on the Merits is February 8, 2019.

#### V.

No extension has previously been granted regarding the State's Brief on the Merits.

#### VI.

Oral argument was not granted. The submission date in this case is not yet set. Therefore, this requested extension will not delay submission.

#### VII.

Appellant's counsel, Mr. Colin McLaughlin, has no objection to this motion.

#### VIII.

The extension is not requested for purposes of delay, but rather to adequately brief the legal issues. The Court granted review of two issues regarding the trial court's authority to correct prior judgments and whether a nunc pro tunc signed while the trial court retains plenary power is a "separate appealable order."

Since this Court granted the State's petition for discretionary review on January 9, 2019, counsel has filed (1) a brief in *Galloway v. State*, No. 06-18-00132-

CR; (2) a post-submission letter brief in *In the Matter of M.S.*, No. 02-18-00099-CV; and (3) a State's Motion for En Banc Reconsideration and a State's Motion for Rehearing in *Kitchen v. State*, No. 02-18-00374-CR. Counsel also represented the State at oral arguments in *In the Matter of M.S.*, No. 02-18-00099-CV on January 23, 2019. In addition, counsel has filed the following pleadings in article 11.07 applications for writ of habeas corpus proceedings:

#### Motions to Dismiss

*Ex parte Michael Stein*, No. C-371-W011445-1486298-A;  
*Ex parte Deion Anderson*, No. C-371-W011446-1554948; and  
*Ex parte Adam Martin*, No. C-213-W011448-0206955-B.

#### State's Answers

*Ex parte Kawanza Jackson*, No. C-371-W011434-1505145-A;  
*Ex parte Hector D. Hernandez*, No. C-371-W011435-0971516-C;  
*Ex parte Michael Bazan*, No. C-371-W011436-1046612-C;  
*Ex parte Raul Gonzales*, No. C-2-W011438-0690658-A;  
*Ex parte Charles James Garrett*, No. C-372-W011439-1410502-A; and  
*Ex parte Bruce Sledge*, No. C-3-W011447-1219981-B.

#### State's Proposed Findings of Fact and Conclusions of Law

*Ex parte Stephen Lowrey*, WR-47,377-04, No. C-372-W011285-0567589-D;  
*Ex parte Travis Reed*, No. C-3-W011247-1302271-A;  
*Ex parte Antonious Dotson*, No. C-371-W011350-1410483-B;  
*Ex parte Lawrence White*, No. C-396-W011352-1434087-A;  
*Ex parte Adrian Phillips*, No. C-2-W011355-1416255-A;  
*Ex parte Clinton Airheart*, No. C-2-W011356-1215028-A;  
*Ex parte James Clayton Garrett*, No. C-1-W011359-1419884-B;

*Ex parte Russell Scott*, No. C-396-W011368-1496640-A;  
*Ex parte Corian Johnson*, Nos. C-396-W011406-1291893-A,  
C-396-W011407-1294905-A,  
C-396-W011408-1299045-A;  
*Ex parte Michael Bazan*, No. C-371-W011436-1046612-C; and  
*Ex parte Bruce Sledge*, No. C-3-W011447-1219981-B.

## IX.

Additionally, counsel has a brief due on extension on February 19, 2019, in *London v. State*, No. 02-18-00195-CR, and due on extension on February 27, 2019, in *Jackson v. State*, No. 06-18-00149-CR.

For all of these reasons, counsel requests an additional 17 days – from February 8, 2019 until Monday, February 25, 2019 -- in which to file the State's Brief on the Merits.

WHEREFORE, PREMISES CONSIDERED, the State of Texas prays that the Court grant this First Motion for Extension of Time for Filing of State's Brief on the Merits and extend the time for filing of the brief for 17 days until Monday, February 25, 2019.

Respectfully submitted,

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/s/ Andréa Jacobs  
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### **CERTIFICATE OF COMPLIANCE**

There are 934 words in this document according to the word counting function of Microsoft Word 2016.

/s/ Andréa Jacobs  
ANDRÉA JACOBS

### **CERTIFICATE OF SERVICE**

A true copy of the State's motion has been e-served to opposing counsel, Mr. Colin McLaughlin, at colin@hoellermclaughlin.com, on the 7<sup>th</sup> day of February, 2019.

/s/ Andréa Jacobs  
ANDRÉA JACOBS